

## REMARKS

Claims 1-26 are pending in the application. Claims 1, 2, 4-13, and 15-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by over U.S. Pat. No. 4,800,879 to Golyakhovsky et al. Claims 3, 14, and 22-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Golyakhovsky. The applicant respectfully traverses the Examiner's rejections for the reasons set forth below.

Independent claim 1, as amended, is directed to a surgical clip that includes, inter alia:

a retainer extending from said first end of said second arm portion, said retainer extending beyond said tip of said first arm portion and substantially parallel to said first arm portion and being deformably bendable and having **a tissue piercing tip**; and

a bridge portion connecting said opposite ends of said first and second arm portions,

wherein said first and second arm portions and said bridge portion comprise a **single continuous piece of material and maintain a generally U-shaped configuration before, during, and after application of said clip to tissue of the patient**, and said retainer is adapted to be plastically deformed toward said first arm portion and about or adjacent said tip of said first arm portion.

Applicant first notes that amended claim 1 requires that the first and second arm portions and the bridge portion be made from a single continuous piece of material. The clip disclosed in Golyakhovsky is not made from a single continuous piece of material. Instead, it is formed from two separate arms connected by a rotatable hinge to which the two separate arms are rotatably connected. Therefore, Golyakhovsky does not show first

and second arm portions and a bridge portion made from a single continuous piece of material as required by amended claim 1.

Applicant also notes that amended claim 1 requires that the first and second arm portions and the bridge portion maintain a generally U-shaped configuration before, during, and after application of the clip to tissue of the patient. As discussed above, the arms of Golyakhovsky are rotatably connected to a rotatable hinge. The arms swing freely about the hinge and clearly do not maintain a generally U-shaped configuration before, during, and after application of the clip to tissue of the patient as required by amended claim 1.

Finally, Applicant notes that claim 1 as previously presented and as currently amended requires that the retainer have a tissue piercing tip. The Examiner states that the tip of the first arm of the Golyakhovsky clip is "capable of piercing tissue," but provides no evidence of that assertion. Golyakhovsky does not disclose a retainer having a tissue piercing tip. In fact, such functionality would be contrary to the purpose of the clip of Golyakhovsky, which is to encircle and occlude a blood vessel with minimal or no traumatization of the wall of the blood vessel or disturbance of adjacent body structures (Abstract; Col 2, lines 1-4; Col 3, line 65 to Col. 4, line 5; Col. 5, lines 35-39).

For these reasons, Applicant respectfully submits that Golyakhovsky does not disclose or suggest the limitations of amended claim 1, and that amended claim 1 is thus patentable.

Applicant submits that independent claims 5, 9, 13, 17, and 21, which, as amended, recite the limitations that the first and second arm portions and bridge portion be made from a single continuous piece of material and maintain a generally U-shaped configuration before, during, and after application of the clip to tissue of the patient, are patentable for the same reasons espoused above with respect to claim 1 regarding these limitations.

Dependent claims 2-4, 6-8, 10-12, 14-16, 18-20, and 22-26 are thus patentable for the same reasons that the independent claims from which they respectfully depend are patentable, and for reciting additional limitations not shown in the cited art.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David S. Jacobson", is written over a vertical dashed line.

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